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FILED

AUG 20 2015

Hazel L. Parker  
CLERK OF DISTRICT COURT  
DEPUTY *[Signature]*

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9 Attorneys for the Plaintiff

10 MONTANA SIXTEENTH JUDICIAL DISTRICT COURT, CUSTER COUNTY

11 STATE OF MONTANA,

12 Plaintiff,

13 -vs-

14 RICHARD (RICK) BRANDT,

15 Defendant.

Cause No.: DC-15- 59

HONORABLE MICHAEL B. HAYWORTH

**MOTION AND AFFIDAVIT  
FOR ORDER GRANTING  
LEAVE TO FILE INFORMATION**

16 STATE OF MONTANA )  
 17 : ss.  
 18 COUNTY OF LEWIS & CLARK )

19 Jesse Laslovich, deposes and says that he and Brett O'Neil are duly appointed  
 20 and qualified Special Deputy Custer County Attorneys and Special Assistant Montana  
 21 Attorneys General. He hereby moves the Court for leave to file an Information direct in  
 22 the above-entitled Court charging the Defendant, RICHARD BRANDT, with the  
 23 offenses of: COUNT 1: EXPLOITATION OF AN OLDER PERSON, a felony as  
 24 specified in § 52-3-825(3) MCA; COUNT 2: THEFT BY EMBEZZLEMENT, a felony  
 25 as specified in § 45-6-301(7)(b), MCA; COUNT 3: FAILURE TO REGISTER AS A  
 26

MOTION AND AFFIDAVIT FOR ORDER GRANTING LEAVE TO FILE INFORMATION

1 SECURITIES SALESPERSON (common scheme), a felony as specified in § 30-10-  
2 201(1), MCA; COUNT 4: FAILURE TO REGISTER A SECURITY (common  
3 scheme), a felony as specified in § 30-10-202, MCA; COUNT 5: FRAUDULENT  
4 PRACTICES, a felony as specified in § 30-10-301(c) (common scheme); and  
5 COUNT 6: OPERATING A PYRAMID PROMOTIONAL SCHEME (Ponzi Scheme)  
6 (common scheme), a felony as specified in §§ 30-10-324(7)(b) and 30-10-325, MCA.

7 The following facts were developed by investigating officers both in Custer  
8 County and at the Montana State Auditor's office, and the affiant has no reason to  
9 believe these facts are not true, and believes them to be true. In the affiant's opinion,  
10 these facts constitute sufficient probable cause to justify the filing of charges.

11 The Court is informed that this case began when Susan Mattocks notified the  
12 Miles City Police Department (MCPD) of a possible embezzlement case involving her  
13 mother, O.G., a resident at Friendship Villa Nursing home.

14 The MCPD also heard from Claudette Manson, an employee with Adult  
15 Protective Services in Custer County, who expressed concerns regarding investments  
16 made by B.R., an individual with dementia whom she was assisting. The MCPD  
17 subsequently referred the matter to the Montana State Auditor, Office of the  
18 Commissioner of Securities and Insurance (CSI), which regulates the offer and sale of  
19 securities to or from Montana. The CSI subpoenaed bank records and spoke with all  
20 victims or their representatives identified herein. The CSI reviewed all Stockman Bank  
21 Account records wherein Defendant's name or Home Investors LLC appeared either as  
22 a signee or on the account itself. The CSI also spoke with 17 of the 18 investors<sup>1</sup> or  
23 their representatives whose money appeared in any of the accounts Stockman Bank  
24 provided. Based on the investigation, the CSI alleges Defendant solicited elderly

25 \_\_\_\_\_  
26 <sup>1</sup>The CSI was unable to speak with L.S. She is Defendant's sister-in-law and never returned CSI phone calls.

1 persons to invest in his company, Home Investors LLC (d/b/a Faith Investors, LLC), by  
2 promising a 15 percent rate of return in Home Investors LLC, a company Defendant set  
3 up ostensibly to remodel and flip homes in Nebraska and Missouri. Not much money,  
4 however, actually went to Home Investors LLC, nor to remodeling or flipping homes as  
5 he told investors it would. The money was instead used for Defendant's personal  
6 transactions. The CSI used the Bank Deposit Method of forensic accounting in its  
7 analysis of the total deposits during the relevant time period and analyzed the deposits  
8 against total expenses.

9 Based on its investigation, the CSI believes there were 18 total investors who  
10 invested with the Defendant. The following outlines each investor and their investment:

11 A. O.G., a Custer County resident, is 100 years old and shares a bank account  
12 with Ms. Mattocks. As O.G. aged, she hired Defendant to manage her finances and pay  
13 bills for her. The most significant of these bills was to the nursing home where O.G.  
14 resided. However, when the nursing home contacted Ms. Mattocks to inform her O.G.  
15 had not been paying her bills, Ms. Mattocks discovered Defendant had instead written  
16 checks to his personal company, Home Investors LLC. The CSI alleges Defendant  
17 misappropriated \$73,800.00 from O.G.'s personal account to Home Investors LLC. A  
18 review of the bank records shows \$44,679.30 went to Defendant's personal  
19 expenditures and cash withdrawals, \$8,424.45 went to pay later investors (Ponzi  
20 payments), \$8,371.00 went as payments to Defendant's family members, and  
21 \$12,325.25 was used for the remodeling of homes (Home Investors LLC's ostensible  
22 business).

23 B. G.G. is 74 years old and a Yellowstone County resident. In February 2011,  
24 Defendant convinced G.G. to liquidate all his accounts with D.A. Davidson and to  
25 invest the money with Defendant and his brother in a company called Pace Investment  
26 Corporation. This money was either lost or was transferred to Home Investors LLC.

1 Defendant eventually merged Pace Investment Corporation into Home Investors LLC.  
2 G.G. invested \$608,850.00 in Defendant's companies. Defendant repaid G.G.  
3 \$120,450.00 from later investors (Ponzi payments), which kept G.G. investing money  
4 through August 2014. Of G.G.'s total investment, \$225,405.61 went to Defendant's  
5 personal expenditures and cash withdrawals, \$72,494.17 went to Ponzi payments,  
6 \$29,747.44 went as payments to Defendant's family members, \$114,163.35 was an  
7 investment loss from Pace Investment Corporation, and \$167,039.43 went to the  
8 remodeling of homes.

9 C. D.L. is 53 years old and a Custer County resident. He lives on disability  
10 and social security and received a settlement in 2013 related to his disability.  
11 Defendant solicited D.L. to invest his settlement with Home Investors LLC. D.L.  
12 invested \$32,000.00 with Defendant in two installments in December 2013 and  
13 February 2014. Defendant provided a note which promised D.L. a 15 percent rate of  
14 return annually, to be paid every six months. Defendant repaid D. L. \$7,000.00 with  
15 money received from later investors (Ponzi payments). Of the total investment,  
16 \$11,915.14 went to Defendant's personal expenditures and cash withdrawals, \$4,571.00  
17 went as payments to Defendant's family members, \$13,513.86 repaid previous investors  
18 (Ponzi payments), and \$2,000.00 went to the remodeling of homes.

19 D. F.F. is 75 years old and a Custer County resident. Defendant approached  
20 her in her Miles City church with his investment opportunity which would provide her  
21 with \$375.00 per month for the rest of her life if she invested \$30,000.00. She agreed to  
22 invest. The investment was with Home Investors LLC and occurred in November 2012.  
23 Defendant repaid F.F. \$3,375.00 from later investors (Ponzi payments). Of F.F.'s total  
24 investment, \$19,989.59 went to Defendant's personal expenditures and cash  
25 withdrawals, \$2,100.00 went as payments to Defendant's family members, and  
26 \$7,910.41 went to the remodeling of homes.

1 E. B.R. is 75 years old and a Custer County resident. Defendant originally  
2 sold B.R. a fixed annuity in 2010, which he encouraged her to liquidate shortly  
3 thereafter. The Defendant's reason for liquidating was so B.R. could invest in Home  
4 Investors LLC, which allegedly promised a greater rate of return. B.R. ultimately  
5 invested \$50,000.00 in two installments in September 2011 and November 2011.  
6 Defendant provided B.R. with a note dated September 28, 2011, promising a 15 percent  
7 rate of return and a note dated October 19, 2011, promising a 20 percent rate of return.  
8 Defendant repaid \$20,000.00 from later investors (Ponzi payments). Of B.R.'s total  
9 investment, \$30,623.51 went to Defendant's personal expenditures and cash  
10 withdrawals, \$5,760.00 went to Ponzi payments, and \$13,616.49 went as payments to  
11 Defendant's family members. No money went to the remodeling of homes.

12 F. R.L. and M.L. are 83 years old and 79 years old, respectively, and are both  
13 residents of Custer County. Defendant sold them insurance coverage and fixed  
14 annuities in 2010. He encouraged them to liquidate those annuities so they could invest  
15 in Home Investors LLC, which promised a greater rate of return. They ultimately  
16 invested \$86,000.00, for which they received notes guaranteeing a 15 percent rate of  
17 return, payable monthly. The notes were executed in February 2012 and March 2012.  
18 Defendant repaid them \$9,000.00 from later investors (Ponzi payments). Of their total  
19 investment, \$74,663.46 went to Defendant's personal expenditures and cash  
20 withdrawals, \$6,273.00 went to Ponzi payments, \$5,000.00 went to payments to  
21 Defendant's family members, and \$63.54 went to the remodeling of homes.

22 G. M.W. is 76 years and a resident of Yellowstone County. She met  
23 Defendant through B.H. She invested \$10,000.00 with Home Investors LLC in January  
24 2015 with the understanding she would earn 10 percent interest. She was to be paid  
25 back in June 2015. To date, she has not received any money. Of M.W.'s total  
26

1 investment, \$6,550.00 went to Defendant's personal expenditures and cash withdrawals  
2 and \$3,450.00 went to Ponzi payments. No money went to the remodeling of homes.

3 H. C.W. and N.W. are 68 years old and 48 years old, respectively, and are both  
4 residents of Custer County. Defendant sold them investments in Home Investors LLC,  
5 promising a 15 percent rate of return. They invested \$240,000.00 in four installments,  
6 the first of which in June 2013 and the last of which in January 2014. Defendant repaid  
7 them \$44,000.00 from later investors (Ponzi payments). Of their total investment,  
8 \$84,298.97 went to Defendant's personal expenditures and cash withdrawals,  
9 \$24,238.70 went to Ponzi payments, \$14,427.00 went to payments to Defendant's  
10 family members, and \$117,035.33 went to the remodeling of homes.

11 I. J.F. is 54 years old and a resident of Yellowstone County. J.F. purchased  
12 an annuity from Defendant, which the Defendant encouraged him to liquidate in order  
13 to invest with Home Investors LLC. J.F. ultimately invested \$46,982.00 with  
14 Defendant in November 2011. Defendant repaid J.F. \$16,317.60 from later investors  
15 (Ponzi payments). Of J.F.'s total investment, \$44,524.00 went to Defendant's personal  
16 expenditures and cash withdrawals and \$2,458.00 went as payments to Defendant's  
17 family members. No money went to the remodeling of homes.

18 J. B.W. is 83 and a resident of Custer County. She and her husband (now  
19 deceased) invested \$10,000.00 in November 2013 with Defendant. Of their total  
20 investment, \$1,385.40 went to Defendant's personal expenditures and cash withdrawals,  
21 \$592.40 went to Ponzi payments, \$885.25 went as payments to Defendant's family  
22 members, and \$7,136.95 went to the remodeling of homes.

23 K. S.M. is 64 and a resident of Custer County. She invested \$5,000 with  
24 Defendant in February 2014 based on his representations she would receive a  
25 15 percent rate of return. Of S.M.'s total investment, \$1,433.95 went to Defendant's  
26

1 personal expenditures and cash withdrawals, \$3,111.74 went to Ponzi payments, and  
2 \$454.31 went as payments to Defendant's family members. No money went to the  
3 remodeling of homes.

4 L. B.H. is 74 years old and a resident of Yellowstone County. Defendant  
5 convinced her she could earn 10 percent on her investment. She invested \$2,000 in  
6 February 2015. Of B.H.'s total investment, \$2,000.00 went to Defendant's personal  
7 expenditures and cash withdrawals. No money has gone to the remodeling of homes.

8 M. L.S. is a California resident and Defendant's sister-in-law. She invested  
9 \$70,000.00 with Defendant in two installments, the first in November 2013 and the  
10 second in September 2014. Of L.S.'s total investment, \$23,869.91 went to Defendant's  
11 personal expenditures and cash withdrawals, \$33,053.44 went to Ponzi payments,  
12 \$1,000 went as payments to Defendant's family members, and \$12,076.65 went to the  
13 remodeling of homes.

14 N. J.F. and Jo.F. are 83 and 78, respectively, and are residents of Yellowstone  
15 County. They knew Defendant through his insurance business and discussed with him  
16 his business plan of flipping homes. They invested \$563,000 through four separate  
17 transactions with Defendant, in June 2011, August 2011, February 2012, and May 2012.  
18 To gather money, they surrendered annuities they purchased from Defendant, which  
19 resulted in significant surrender penalties. Defendant provided them four separate  
20 notes, each providing a 15 percent rate of return. Of their total investment, \$158,907.32  
21 went to Defendant's personal expenditures and cash withdrawals, \$16,156.32 went to  
22 Ponzi payments, \$15,100.48 went as payments to Defendant's family members,  
23 \$183,137.00 was an investment loss from Pace Investment Corporation, and  
24 \$189,698.88 went to the remodeling of homes.

1 O. B.B. is in his late sixties and is a resident of Custer County, where he  
2 invested \$5,000.00 with Defendant in two installments, the first in March 2014 and the  
3 second in July 2014. B.B. has Parkinson's disease and Defendant helped him with his  
4 investments. Of B.B.'s total investment in Home Investors LLC, \$2,553.71 went to  
5 Defendant's personal expenditures and cash withdrawals, \$1,388.74 went to Ponzi  
6 payments, and \$1,057.55 went to the remodeling of homes.

7 P. A.B. is 63 years old and is a Custer County resident. A.B. is a pastor who  
8 liquidated his IRA and invested with the Defendant in July 2012. Defendant told A.B.  
9 he would receive a 15 percent rate of return and the money would be used to flip  
10 houses. His total investment was \$106,500.00. Of A.B.'s total investment, \$60,216.00  
11 went to Defendant's personal expenditures and cash withdrawals, \$15,760.00 went to  
12 Ponzi scheme payments, \$11,000.00 went as payment to Defendant's family members,  
13 and \$19,524.00 went to the remodeling of homes.

14 As stated previously, CSI investigators spoke to 17 of the 18 investors or their  
15 representatives. None of the investors received the required disclosure documents from  
16 the company. Standard disclosure documents for securities offerings include, but are  
17 not limited to, audited financial statements, a summary of selected financial data,  
18 management's description of the company's business and financial condition, and risk  
19 factors associated with the issuer and the offering. Standard disclosure information  
20 includes company contracts, and all forms of compensation to promoters (in this case  
21 the Defendant), Defendant's family members, and any other affiliates.

22 An analysis of all bank records indicates Defendant commingled investor funds  
23 in five separate accounts. Each investor was essentially promised the same thing— a  
24 10-20 percent rate of return for their investment in Home Investors LLC. Investors  
25 were not told that the money would be used as a Ponzi scheme or that the money would  
26 be used to fund Defendant's lifestyle, a lifestyle which included eating at restaurants for



1 most meals, a trip for 11 to Disneyland, and child support payments. Five of the  
2 investors liquidated annuities (which Defendant sold them and earned approximately  
3 \$40,122.62 in commissions) and incurred surrender penalties totaling approximately  
4 \$137,418.32. Additionally, A.B., J.F. and Jo.F., and G.G., held self-directed IRAs,  
5 which permit unregistered securities to be listed, meaning they had no idea their funds  
6 had been depleted since Home Investors LLC did not report its financial position to the  
7 IRA servicing company.

8 Ultimately, a forensic analysis indicates Defendant solicited and received  
9 approximately \$1,678,650.00 from 13 victims who were 65 years or older. Defendant  
10 made \$204,216.82 in Ponzi payments, Defendant used \$793,015.87 for Defendant's  
11 personal expenditures and cash withdrawals, and Defendant paid his family members  
12 \$108,730.97.

13 A review of the CSI's internal database and the Securities and Exchange  
14 Commission's (SEC) EDGAR database, which contain securities filings for all  
15 interstate securities offerings, and the Financial Regulatory Authority's (FINRA)  
16 Central Registration Depository (CRD), which maintains registration filings for all  
17 broker-dealer firms and securities salespersons, shows that Defendant is not now, nor  
18 has he ever been, registered as a securities broker-dealer or salesperson in any capacity  
19 with the CSI or FINRA, nor does he meet any exemptions from registration.

20 A review of the CSI's internal database and the Securities and Exchange  
21 Commission's (SEC) EDGAR database, which contain securities filings for all  
22 interstate securities offerings, and the Financial Regulatory Authority's (FINRA)  
23 Central Registration Depository (CRD), indicates Home Investors LLC, Faith Investors,  
24 LLC, or any other iteration thereof is not a registered security with the CSI, the SEC, or  
25 FINRA, nor do any exemptions apply.  
26

WHEREFORE, based on the foregoing facts and those contained in the CSI Investigation Report, your affiant requests the Court issue an Order granting leave to file an Information charging the Defendant, Richard Brandt, with the offenses of:

COUNT 1: EXPLOITATION OF AN OLDER PERSON (common scheme), a felony as specified in § 52-3-825(3), MCA; COUNT 2: THEFT BY EMBEZZLEMENT (common scheme), a felony as specified in § 45-6-301(7)(b), MCA; COUNT 3: FAILURE TO REGISTER AS A SECURITIES SALESPERSON (common scheme), a felony as specified in § 30-10-201(1), MCA; COUNT 4: FAILURE TO REGISTER A SECURITY (common scheme), a felony as specified in § 30-10-202, MCA; COUNT 5: FRAUDULENT PRACTICES, a felony as specified in § 30-10-301(c) (common scheme); and COUNT 6: OPERATING A PYRAMID PROMOTIONAL SCHEME (Ponzi Scheme) (common scheme), a felony as specified in §§ 30-10-324(7)(b) and 30-10-325, MCA.

DATED this 20<sup>th</sup> day of August, 2015.

  
**JESSE LASLOVICH**  
**BRETT O'NEIL**

Special Deputy Custer County Attorneys

SUBSCRIBED and SWORN to before me this 20<sup>th</sup> day of August, 2015.

